

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NIZAMI AZIZOV, MIKHAIL LIVSHITS,  
AND PETER SPIVAK,

Plaintiffs,

v.

AMERICAN COMMERCIAL SECURITY  
SERVICES, INC., a California corporation,

Defendant.

Case No. C05-1680RSL

PROTECTIVE ORDER

**PROTECTIVE ORDER**

Pursuant to stipulation of counsel, and CR 26(c); it is hereby ORDERED, as follows:

1. Except as otherwise ordered by this Court, this Order shall apply to the use and disclosure of documents, interrogatories, testimony, information and pleadings produced, given or filed in this action that are designated by a party as "CONFIDENTIAL" in accordance with the terms hereof.

2. Any party may designate as "CONFIDENTIAL" pursuant to the terms of this Order:

- (a) Information contained in a document, answer to interrogatory, answer to request for admission, response to request for production of documents or other writing may be designated by stamping or otherwise marking (in such a manner as will not interfere with the legibility of the document) the

1 first page of the document containing confidential information with an  
2 appropriate notation substantially in the form:

3 **“CONFIDENTIAL”**

4 Unless a party intends to designate all of the information contained within  
5 the document as “CONFIDENTIAL,” the party should indicate in a clear  
6 fashion that portion of the document which the party intends to designate  
7 as containing “CONFIDENTIAL” information. In any written discovery  
8 response, the supplying party shall note on the cover page of the document  
9 that all or a portion of the document contains “CONFIDENTIAL”  
10 information designated pursuant to this Order.

- 11 (b) Information contained or revealed in a deposition whether in a question,  
12 answer or exhibit, may be designated by noting a claim of confidentiality  
13 pursuant to this Order on the record at the time of the depositions,  
14 whenever reasonably possible. The confidential portion shall be identified  
15 as such in the caption or title of the transcript and on each page, as  
16 CONFIDENTIAL. The claimant of confidentiality or the person obligated  
17 to maintain and protect confidentiality under this Order shall, on the  
18 record, advise all persons present at the deposition that the information is  
19 confidential and is subject to a Protective Order governing its use. Before  
20 the disclosure of previously designated CONFIDENTIAL information in a  
21 deposition, all persons who have not theretofore been made subject to this  
22 Order shall be given a copy of this Order and shall acknowledge on the  
23 record of such deposition that he or she has read the Order and agrees to be  
24 bound by its terms. When the claim of confidentiality is not made in  
25 advance of disclosure or at the time of the deposition, it may be made  
26 within a reasonable time thereafter, at which point the designated material  
27 shall be accorded confidential treatment pursuant to this Order and counsel

1 for the party making the claim of confidentiality shall ensure that the  
2 preceding provisions of this subparagraph concerning the transcription and  
3 identification of confidential material are complied with.

4 3. The following types of information, if discoverable because such information is  
5 necessary or essential to any claims or defenses in the action, shall be regarded as “Confidential  
6 Information” if designated by a party as pursuant to the terms of this Order:

- 7 (a) To the extent discoverable, non-public information about security services  
8 of ACSS’s customers, as well as any other information about such  
9 customers or clients, including an analysis of their security needs and  
10 ACSS’s plans and efforts to meet them;
- 11 (b) To the extent discoverable, any confidential business methods, systems, or  
12 procedures used by ACSS in the management and operation of its  
13 business, including any proprietary information, methods, systems,  
14 know—how, or trade secrets.
- 15 (c) To the extent discoverable, any information about, concerning, or  
16 pertaining to ACSS’s business plans, assessment of the market, its  
17 competition, its plans or strategies for meeting competition, its prospective  
18 clients or customers, its marketing or advertising plans, or any budget or  
19 other information about its current, or planned or expected revenue,  
20 pricing policies, or costs of operation.
- 21 (d) To the extent discoverable, personnel records regarding ACCS employees  
22 who are not parties to this action;
- 23 (e) “Protected health information” of the Plaintiffs, as that term is defined in  
24 45 CFR § 160.103; and
- 25 (f) Plaintiffs’ personal financial records.

26 4. Information, documents or materials produced or made available through  
27 preparation and litigation of this case and marked as “CONFIDENTIAL” shall be used solely

1 and exclusively for purposes of this case. Such Confidential Information shall not be used in or  
2 for other cases, proceedings, or disputes, or for any personal, commercial, business, competitive,  
3 or other purpose whatever.

4 5. It is the responsibility of counsel for each party to this action to maintain materials  
5 containing Confidential Information obtained from a party in a secure and appropriate manner so  
6 as to allow access to Confidential Information only to such persons as permitted pursuant to  
7 Paragraphs 7 and 8 of this Order.

8 6. To the extent that a party to this action seeks to file with the Court Confidential  
9 Information, the party shall first notify the other party of the specific materials containing  
10 Confidential Information to be filed and give the party a reasonable opportunity to seek a court  
11 order to seal or redact specified materials.

12 7. Except with the prior written consent of the party asserting confidential treatment  
13 or prior order of Court, after notice as provided hereunder, any Confidential Information, and  
14 any information contained in, or derived from, any such information, may not be disclosed other  
15 than in accordance with this Order and may not be disclosed to any person other than:

16 (a) The parties, and counsel for the parties, including in-house counsel or  
17 other counsel in which the communication is privileged. Counsel, as used  
18 in this Order, shall include partners, associates, paralegals, and secretarial  
19 and clerical employees of such counsel who have a need to know  
20 Confidential Information for purposes of this litigation only, and who shall  
21 be required to abide by the terms of this Order.

22 (b) Bona fide independent experts who are not regularly employed by a party  
23 in this litigation and who have agreed to be bound by the terms of this  
24 Order.

25 (c) The Court and Court personnel under such safeguards as the Court may  
26 direct so as to preserve and protect the confidentiality of information  
27 designated by any party and to prevent harm to any party.

1 (d) Any deposition or trial witnesses and their counsel of record, but only to  
2 the extent that such Confidential Information was written by or to such  
3 witness, refers to such witness or his or her employer, or where counsel  
4 believes in good faith that disclosure is necessary in connection with the  
5 examination or preparation of such witnesses.

6 ALL PERSONS TO WHOM CONFIDENTIAL INFORMATION AND/OR  
7 DOCUMENTS ARE DISCLOSED ARE HEREBY ENJOINED from using same except in the  
8 preparation for trial and trial of this action (under such safeguards as the Court may require) and  
9 from disclosing same to any other person except as provided herein. No person receiving or  
10 reviewing such Confidential Information shall disclose it or its contents to any person other than  
11 those described in this paragraph and for the purposes specified and in no event shall such person  
12 make any other use of such document or transcript.

13 8. If a producing party desires to obtain confidentiality protections other than those  
14 provided by this Order, then the parties shall proceed in accordance with Paragraphs 9 or 10 of  
15 this Order and the subject information shall be produced in accordance with the Order of Court  
16 resulting from such procedures.

17 9. Any party shall be free to move to modify this Order.

18 10. Any party who wishes to challenge another party's designation of information as  
19 "CONFIDENTIAL" may file an appropriate motion with the Court pursuant to the Local Civil  
20 Rules.

21 11. A failure to challenge the propriety of a designation of confidentiality at the time  
22 the designation is made shall not preclude or detract from a subsequent challenge thereto.

23 12. Within sixty (60) days after the conclusion of this case, including any appellate  
24 proceedings, all materials designated as CONFIDENTIAL (including copies, notes and  
25 memoranda thereof) shall be destroyed or returned to the producing party, at the election of, and  
26 expense of, the opposing party.  
27

1           13. The inadvertent or unintentional disclosure of Confidential Information shall not  
2 be construed to be a waiver, in whole or in part, of:

3                   (a) The supplying party's claims of confidentiality either as to the specific  
4 information disclosed or as to any other information relating thereto;

5                   (b) The obtaining party claims of confidentiality for its information pursuant  
6 to this Order.

7           14. A breach of the provisions of this Order shall be subject to sanctions, in the  
8 discretion of the Court, as authorized by any statute, rule or inherent power of the Court, or as  
9 otherwise provided by law.

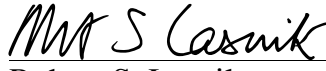
10           15. The provisions of this Order shall survive and remain in full force and effect after  
11 the entry of final judgment (including any appellate proceedings) in this case, whether by  
12 settlement or litigation.

13           16. The agreement of the parties embodied in this Order does not constitute an  
14 admission or agreement that any document or information is subject to discovery, or is  
15 admissible as evidence, in this case. Designation of any information as subject to this Order  
16 shall have no meaning or effect whatsoever with respect to the substantive issues in this  
17 proceeding or the claims or defenses of any party hereto.

18           17. This Court retains jurisdiction, both before and after the entry of final judgment in  
19 this case, (unless it is later determined that the Court lacks jurisdiction over the case), whether by  
20 settlement or litigation to construe, enforce and amend the provisions of this order. The  
21 treatment of confidential information to be introduced at trial shall be the subject of a later order.

22           18. This Order is entirely without prejudice to the rights of any nonparty to apply to  
23 the Court for any further protective order relating to any Confidential Information, or for an  
24 order permitting the disclosure of any Confidential Information.  
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2 DATED this 8th day of May, 2006.  
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5 Robert S. Lasnik  
6 United States District Judge

7 Presented by:

8 SUMMIT LAW GROUP PLLC  
9 Attorneys for Defendant

10 By: /s/ Shannon E. Phillips  
11 Otto G. Klein, III, WSBA # 07061  
12 Shannon E. Phillips, WSBA # 25631

13 STERNBERG THOMPSON OKRENT & SCHER, PLLC  
14 Attorneys for Plaintiff

15 By: /s/  
16 Terry Thomson, WSBA # 5378  
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